

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

BARRY SCHMITTOU,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 3:05-0013
)	Judge Trauger
METROPOLITAN LIFE INSURANCE)	Magistrate Judge Bryant
COMPANY and TMG SOLUTIONS, INC.,)	
doing business as Mosaic Sales Solutions,)	
)	
Defendants.)	

ORDER

On August 17, 2011, the Magistrate Judge issued a Report and Recommendation (Docket No. 153), to which the *pro se* plaintiff has filed objections (Docket No. 160). Because this Report and Recommendation is related to non-dispositive matters, the court may only reconsider the issues if the Magistrate Judge's rulings were clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); Rule 72(a), FED. R. CIV. P. This is a "limited standard of review." *Massey v. City of Ferndale*, 7 F.3d 506, 509 (6th Cir. 1993). A ruling is clearly erroneous "where it is against the clear weight of the evidence or where the court is of the definite and firm conviction that a mistake has been made." *Galbraith v. Northern Telecom, Inc.*, 944 F.2d 275, 281 (6th Cir. 1991) (internal citations omitted). The test is "not whether the finding is the best or only conclusion that can be drawn from the evidence, or whether it is the one which the reviewing court would draw. Rather the test is whether there is evidence in the record to support the lower court's finding, and whether its construction of that evidence is a reasonable one." *Heights*

Community Congress v. Hilltop Realty, Inc., 774 F.2d 135, 140 (6th Cir. 1985) (internal citations omitted).


The plaintiff primarily objects to the refusal by the Magistrate Judge to appoint a Special Prosecutor to investigate various arms of the government and actions by various corporations, including the defendant. The court has reviewed the plaintiff's filings, including his additional submittal filed along with his objections (Docket No. 161) and agrees with the Magistrate Judge that there are no legal grounds for making such an appointment. Therefore, the court cannot find the Magistrate Judge's ruling on this issue clearly erroneous or contrary to law.

For the reasons express herein, the plaintiff's Objections are **OVERRULED**, and the Report and Recommendation (Docket No. 153) is **ACCEPTED** and made the findings of fact and conclusions of law of this court. For the reasons expressed therein and herein, the plaintiff's Motion Requesting Temporary Restraining Order and Injunction (Docket No. 152) is **DENIED**.

The Magistrate Judge's suggestion that he should now order the filing of a supplemental administrative record and set a briefing schedule on cross-motions for summary judgment is appropriate, and the court requests that the Magistrate Judge take this course of action. The court does wish to direct the Magistrate Judge's attention to requests made by the plaintiff concerning the filing of the administrative record (Docket No. 160 at 5-6) and the timing of the filing of cross-motions for summary judgment (Docket No. 160 at 10).

It is so **ORDERED**.

ENTER this 16th day of September 2011.



ALETA A. TRAUGER
U.S. District Judge